

AGENDA

COMMITTEE ON BILLS ON SECOND READING

March 9, 2004

**Aldermen Lopez, Roy,
Sysyn, DeVries, O'Neil**

5:45 PM

**Aldermanic Chambers
City Hall (3rd Floor)**

1. Chairman Lopez calls the meeting to order.

2. The Clerk calls the roll.

3. Ordinance:

“Amending certain provisions of the Motor Vehicles and Traffic Ordinances to provide for increased penalties for parking in a Handicapped Parking Space and to provide penalties for parking in a Handicapped Parking Space Access Aisle.”

Ladies and Gentlemen, what is your pleasure?

4. Ordinance:

“Amending Section 70.55 Residential Parking of the Code of Ordinances of the City of Manchester by adding additional area to Residential Parking Permit Zone #4.”

Ladies and Gentlemen, what is your pleasure?

5. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating §75.00 Motorized Scooters established to govern the use of motorized scooters in the City of Manchester.”

Ladies and Gentlemen, what is your pleasure?

6. Ordinance:

“An Ordinance amending Section 92.24 Tampering with Alarm Boxes by establishing an initial and annual renewal fee for persons authorized under the Fire Department Listed Agenda Program.”

Ladies and Gentlemen, what is your pleasure?

TABLED ITEMS

A motion is in order to remove any of the following items from the table for discussion.

7. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

(Tabled: 11/06/2002)

8. Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.”

(Tabled: 10/14/2003)

9. If there is no further business, a motion is in order to adjourn.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Traffic respectfully advises, after due and careful consideration, that it has approved Ordinance:

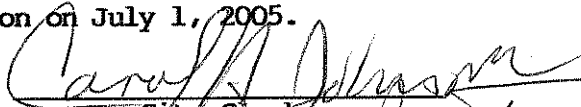
"Amending Section 70.55 Residential Parking of the Code of Ordinances of the City of Manchester by adding additional area to Residential Parking Permit Zone #4."

and recommends same be referred to the Committee on Bills on Second Reading for technical review.


March 3, 2004.

In Board of Mayor and Aldermen.

On motion of Alderman Gatsas, duly seconded by Alderman Osborne, it was voted to amend the report by amending the ordinance to reflect expiration on July 1, 2005.


City Clerk

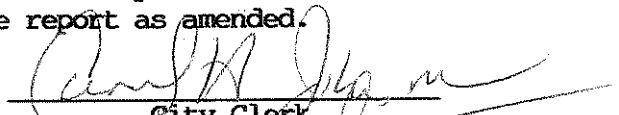
Respectfully submitted


Clerk of Committee

March 3, 2004.

In Board of Mayor and Aldermen.

On motion of Alderman Forest, duly seconded by Alderman DeVries, it was voted to accept, receive and adopt the report as amended.


City Clerk

City of Manchester New Hampshire

In the year Two Thousand and 2004

AN ORDINANCE

“Amending Section 70.55 Residential Parking of the Code of Ordinances of the City of Manchester by adding additional area to Residential Parking Permit Zone #4.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amending Section 70.55 Residential Parking of the Code of Ordinances of the City of Manchester by adding language printed in **bold** as follows:

(4) Residential Parking Permit Zone #4.

Area described as follows: Pine Street, east side, from Valley to Auburn Streets; Cedar Street, both sides, from Pine to Union Streets; Auburn Street, south side, from Pine to Union Streets; Spruce Street, both sides, from Pine to Union Streets; Central Street, north side, from Union to Pine Streets; and Laurel Street, both sides, from Union to Pine Streets; **and further described as Auburn Street both sides from Union Street to Maple Street; Beech Street west side, from Auburn Street to Valley Street; Bell Street, both sides, from Union Street to Beech Street; Grove Street both sides, from Union Street to Beech Street; and Green Street, both sides, from Union Street to Beech Street.**

II. This Ordinance shall take effect upon its passage and when duly posted.

III. This Ordinance shall expire on July 1, 2005.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Traffic/Public Safety respectfully advises, after due and careful consideration, that it has reviewed an Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating §75.00 Motorized Scooters established to govern the use of motorized scooters in the City of Manchester.”

and recommends that same be referred to the Committee on Bills on Second Reading for technical review.

At a meeting of the Board of Mayor and Aldermen

held Feb 17, 2004 on a motion of Ald. O'Neil

duly seconded by Ald. Smith the report

of the Committee was accepted and its recommendations

(adopted) ~~(denied)~~

L. R. Bernier
City Clerk

Respectfully submitted,

L. R. Bernier

Clerk of Committee

City of Manchester New Hampshire

In the year Two Thousand and Four

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating §75.00 Motorized Scooters established to govern the use of motorized scooters in the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

GENERAL PROVISIONS

- § 75.01 DEFINITION.
- § 75.02 OBEDIENCE TO TRAFFIC CONTROL ORDINANCES; EFFECT OF CONFLICT
- § 75.03 OBEDIENCE TO TRAFFIC CONTROL DEVICES; EXCEPTIONS
- § 75.04 AGE REQUIREMENTS
- § 75.05 EQUIPMENT REQUIRED
- § 75.06 SPEED; DIRECTION
- § 75.07 YIELDING RIGHT-OF-WAY
- § 75.08 NOISE
- § 75.09 RENTAL
- § 75.10 PENALTIES

LICENSES

- § 75.11 LICENSES REQUIRED
- § 75.12 APPLICATION
- § 75.13 ISSUANCE
- § 75.14 FEE; DURATION

GENERAL PROVISIONS

This ordinance shall govern the use of all motorized scooters, also known as go-peds or motorized skateboards, on all public streets, alleys and highways within the City of Manchester and the property of any designation owned by the City.

§ 75.01 DEFINITION.

For the purpose of this ordinance the term motorized scooters shall mean any vehicle with a gas or electric engine and wheels joined, in tandem, to the bottom of a narrow platform with a vertical handle fixed to the platform, frame or wheels which is intended to be ridden in a standing position.

City of Manchester New Hampshire

In the year Two Thousand and FOUR

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating §75.00 Motorized Scooters established to govern the use of motorized scooters in the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

§ 75.02 OBEDIENCE TO TRAFFIC CONTROL ORDINANCES; EFFECTS OF CONFLICT.

Any person operating a motorized scooter upon any public highway or path within the City shall operate the same in accordance with all the provisions contained in the traffic ordinances of the City.

§ 75.03 OBEDIENCE TO TRAFFIC CONTROL DEVICES; EXCEPTIONS

All official traffic signals, signs, and other control devices within the City used in regulating and directing traffic must be obeyed, unless otherwise directed by a police officer; and on public highways where authorized signs are erected, indicating that no left, right, or "U" turn is permitted, no person or persons operating a motorized scooters in the city shall disobey the regulation contained therein, except that when such person dismounts from the bicycle to make any such turn, he shall obey all the traffic ordinance provisions applicable to pedestrians.

§ 75.04 AGE REQUIREMENTS

The use of a motorized scooter is allowed by anyone 16 years of age or older; anyone under this age is restricted from using them. A valid motor vehicle driver's license is not required to operate a motorized scooter.

§ 75.05 EQUIPMENT REQUIRED

No person shall operate a motorized scooter unless it is equipped with a brake. Operators shall wear footwear consisting of a sturdy sole and which completely covers the feet and toes.

Any motorized scooters operated upon any way during the period from ½ hour after sunset to ½ half hour before sunrise, and whenever rain, snow, or fog shall interfere with the proper view of the road shall be equipped with a lamp emitting a white light visible from a distance of 300 feet in front of the motorized scooter and with a red reflector on the rear which shall be visible from a distance of 300 feet to the rear when directly in front of the headlamps of a motor vehicle.

City of Manchester New Hampshire

In the year Two Thousand and Four

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating §75.00 Motorized Scooters established to govern the use of motorized scooters in the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 75.06 SPEED; DIRECTION

Motorized scooters shall not be operated within the City at a speed greater than is reasonable and prudent under the conditions then existing, and shall be operated as near the right-hand side of the highway as practicable, exercising due care when passing a parked vehicle, or one proceeding in the same direction.

§ 75.07 YIELDING RIGHT-OF-WAY

Motorized scooters emerging from an alley, driveway, or building within the City shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, or driveway yield the right-of-way to all pedestrians approaching on the said sidewalk or sidewalk area; and upon entering the highway shall yield the right-of-way to all vehicles approaching on said highway.

§ 75.08 NOISE

No motorized scooter shall make any unreasonably loud, disturbing or unnecessary noise.

§ 75.09 RENTAL

No person shall rent, or offer for rent, any motorized scooter within the City unless it is properly licensed and equipped in accordance with the provision of this chapter.

§ 75.10 PENALTIES

Any person or persons violating any act or provision of this ordinance shall be fined not more than \$25 for the first offense and \$50 for a second offense. Any person or persons violating this ordinance on a third, or more, time must appear.

City of Manchester New Hampshire

In the year Two Thousand and Four

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating §75.00 Motorized Scooters established to govern the use of motorized scooters in the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

LICENSES

§ 75.11 LICENSES REQUIRED

No person shall ride or propel a motorized scooter on any public highway within the City, or upon any other public path unless such motorized scooter has been properly licensed as herein provided.

§ 75.12 APPLICATION

Any person requiring a license for a motorized scooter shall submit his application in writing to the Chief of Police, or his authorized agents. Each application shall be made on an approved form to be provided by the Police Department and contain such information as the Chief of Police may deem necessary for the proper enforcement of this chapter.

§ 75.13 ISSUANCE

It shall be the duty of the Chief of Police or his agents to act on all motorized scooter license applications received and to issue the same when the provisions of this chapter have been complied with by the applicant, including the certification by the applicant that the motorized scooter is in good and safe mechanical condition.

§ 75.14 FEE; DURATION

A. The fee for each motorized scooters license issued shall be \$5. A motorized scooter shall be considered registered for the entire life of the motorized scooter, unless the plate provided by the Chief of Police has been mutilated, destroyed, altered, or the ownership of the motorized scooter has been transferred to another person.

B. Upon transfer of ownership of the motorized scooter the new owner shall re-register the motorized scooter as provided in § 72.21.

This ordinance shall take effect upon its passage.

To the Board of Mayor and Aldermen of the City of Manchester:

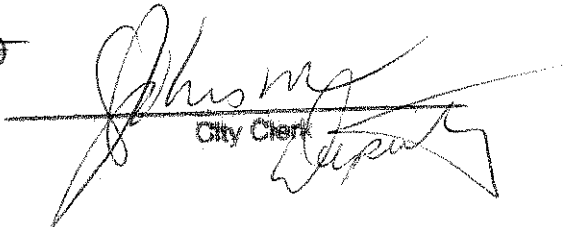
The Committee on Accounts, Enrollment and Revenue Administration
respectfully advises, after due and careful consideration, that it has approved
Ordinance:

“An Ordinance amending Section 92.24 Tampering with Alarm Boxes by
establishing an initial and annual renewal fee for persons authorized under the Fire
Department Listed Agent Program.”


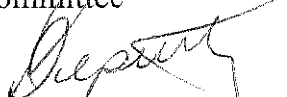
and recommends same be referred to the Committee on Bills on Second Reading
for technical review.

At a meeting of the Board of Mayor and Aldermen
held March 3 2004 on a motion of Ald. O'Neil
duly seconded by Ald. DeVries the report
of the Committee was accepted and its recommendations

(adopted) ~~(denied)~~


City Clerk

Respectfully submitted,


Clerk of Committee


City of Manchester New Hampshire

In the year Two Thousand and Four

AN ORDINANCE

“An Ordinance amending Section 92.24 Tampering with Alarm Boxes by establishing an initial and annual renewal fee for persons authorized under the Fire Department Listed Agent Program.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Amending 92.24 Tampering With Alarm Boxes in it's entirety and replace with language as follows:

92.24 Tampering With Alarm Boxes.

No person shall open any alarm box connected with the fire alarm system except by the authority of the Chief of the Fire Department. Those individuals that have been authorized, under the Fire Department Listed Agent Program, will be charged an initial fee of \$25.00 and an annual renewal fee of \$25.00. This renewal will take effect on January 1 of each year.

II. This Ordinance shall take effect upon its passage.

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City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 1 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by deleting §§ 111.65 through 111.70: Dances; Dance Halls; Assembly in its entirety and inserting new §§ 111.65 through 111.73: Dances; Dance Halls; Assembly. New language to the sections appear in bold (**bold**). Previous language from the sections that remain unchanged appear in regular type.

DANCES; DANCE HALLS; ASSEMBLY

§ 111.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-WEIGHTED SOUND PRESSURE. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

DANCE HALL. Any location, other than a food-service establishment as defined by § 117.01 of this title, which permits or permits to occur, dancing. This definition shall not include a public or private school licensed by the state or the city for the purpose of conducting regular dancing classes or dance courses of study as its regular and recurrent business activity.

DECIBEL. A logarithmic unit of measure often used to measure magnitudes of sound. The symbol is dB.

ENTERTAINMENT PLACE OF ASSEMBLY. A room or space in which provision is made for the occupancy or assembly of 100 or more persons for entertainment purposes. For the purpose of this definition such room or space shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or storied above or below, where entrance is common to the rooms, space, or areas. An entertainment place of assembly shall be classified in either two classifications, Class I or Class II. A Class I entertainment place of assembly shall apply to non-profit organizations that do not receive exemptions pursuant to § 110.08(C) of this Code. Class II entertainment places of assembly shall include all other applicants.

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City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 2 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

NOISE. Any sound that exceeds the standards set forth in this chapter, annoys or disturbs a reasonable person of normal sensibilities, or causes or tends to cause any adverse psychological or physiological effect on humans.

SOUND. An oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

SOUND LEVEL METER. An apparatus for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute.

§ 111.66 LICENSE REQUIRED.

(A) No person shall own or operate a dance hall or entertainment place of assembly within the city unless a license shall first be obtained from the City Clerk.

(B) No person shall conduct or allow to be conducted any entertainment or public dancing which is an isolated or occasional event, and which is not part of the regular and recurrent business activity of the owner or operator of the room or space within the city unless a license shall first be obtained from the City Clerk.

(C) (1) Notwithstanding any other licensing ordinance, a duly licensed Class I and Class II restaurant in the city may allow dancing and entertainment upon obtaining an annual restaurant dance and entertainment license from the city.

(2) The application for a restaurant dance and entertainment license shall be made to the City Clerk upon forms to be determined by the City Clerk, the licensee shall be liable for any applicable police officer's fee and the license shall expire annually on April 30.

Penalty, see § 111.99

Cross-reference:

Business license fees, see § 110.20

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 3 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 111.67 POLICE ATTENDANCE AT FUNCTION.

When it is determined after investigation by the Chief of Police to be necessary to preserve order, protect the health, safety, and welfare of the citizens of the city, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments required to be licensed under this subchapter shall be required to hire an off-duty police officer or officers during those hours the Chief of Police deems appropriate. The Chief of Police may suspend the requirement after investigation as he deems appropriate, but his requirement may be reinstated following receipt of complaints and investigation by the Chief of Police.

§ 111.68 MINORS TO BE ACCOMPANIED BY PARENT OR GUARDIAN.

Minors under the age of 17 years shall not be admitted to a dance hall unless accompanied by parent or guardian or under the supervision of school authorities.
Penalty, see § 111.99

§ 111.69 RESTRICTED AREAS AT DANCES.

No person attending a public dance shall enter any room designated for the use of the opposite sex.
Penalty, see § 111.99

§ 111.70 CURFEW AT DANCES.

(A) No public dancing shall be permitted between the hours of 2:00 a.m. and 2:00 p.m. on Sunday, 1:00 a.m. and 12:00 p.m. on Monday, or 2:00 a.m. and 12:00 p.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

(B) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.
Penalty, see § 111.99

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 4 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 111.71 NOISE ACTIVITIES; PURPOSE.

The purpose of this section is to establish standards that will eliminate and reduce unnecessary noise at outdoor venues throughout the city which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

(A) No person shall conduct an event that involves the amplification of sound or speech above sixty (60) dB(A) for the purpose of presenting a musical selection, show, performance or concert at an outdoor venue within the limits of the city of Manchester without obtaining a noise permit issued by the Office of the City Clerk.

(B) The following general guidelines shall apply to the issuance of a noise permit. These guidelines are not all inclusive as other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of the events noise upon the community:

(1) All outdoor venues shall have a curfew of 10:00 p.m. Any event which exceeds this curfew shall be assessed the penalty identified in §111.99(C)(4) for each fifteen (15) minute period beyond this curfew.

(2) The Office of the City Clerk shall not grant a permit to conduct noise at level greater than 100dB(A) to be measured one hundred feet (100') from the noise source.

(3) Any sound board or mix position present at an event shall be placed at one hundred feet (100') from the noise source.

(4) The Office of the City Clerk may require any applicant to be monitored for sound levels to ensure compliance with this chapter. Monitoring may be conducted by a representative of the City or an independent third party using an appropriate sound level meter. In the event of third party monitoring, all expenses associated with the sound monitoring shall be assumed by the applicant.

(5) In granting a license, the Office of the City Clerk may impose additional conditions or stipulations it deems necessary and proper to preserve the intent of this chapter.

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City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.

Page 5 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(6) Should an application for a noise permit be denied, the applicant can appeal the decision to the Committee on Administration/Information Systems of the Board of Mayor and Aldermen.

§ 111.72 PERMIT FEES.

Each application for a noise permit shall include an application fee of two hundred dollars (\$200.00) cash, money order or bank check made payable to the City of Manchester.

§ 111.73 PROHIBITED CONDUCT.

The following conduct is prohibited:

(A) Provide any false or inaccurate information to any City board, committee, commission or any employee of the City of Manchester, in an attempt to deceive or otherwise avoid compliance with this ordinance.

(B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized persons while in the performance of their duties under this ordinance.

(C) Emit or cause to be emitted any noise which exceeds the established limits in §111.71(B)(2) of this chapter.

(D) Violate any subsection of §111.71 of this chapter.

(E) Conduct an event that involves the amplification of sound or speech above sixty (60) dBA for the purpose of presenting a musical selection, show, performance

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 6 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

or concert at an outdoor venue in the city of Manchester without obtaining a license from the Office of the City Clerk pursuant to § 111.71(A).

- II. Amend the Code of Ordinances by deleting language within §111.99: Penalty as stricken (-----) and inserting new language as bolded (**bold**). Portions of §111.99: Penalty that remain unchanged appear in regular type.

§ 111.99 PENALTY.

(A) Any person who shall fail to comply with any of the provisions of this chapter or who shall violate any of the provisions set forth herein, **unless a penalty is specified elsewhere**, shall be subject to the penalties as set forth in § 10.99 of this code of ordinances.

(B) (1) Any person who commits an act prohibited or made unlawful by §§ 111.40 through ~~111.55~~ **111.73** of this chapter or fails to perform any act required by such subchapter shall be guilty of a violation. Each act of violation, **or in the case of continuous violation**, every day upon which any such violation shall occur shall constitute a separate offense. In addition, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs. Parties held responsible for violations of §§ 111.40 through ~~111.55~~ **111.73** shall include corporate officers, partners, or owners as identified on the business license application or as may be otherwise identified by the ~~Police Department~~ **City** as a result of any related investigation.

(2) The Police Department is hereby authorized to seize any amusement device located within the city in contravention of any of the provisions of §§ 111.40 through 111.55. Upon such seizure the Police Department shall notify the owner of the seized devices, or the person in whose place of business the amusement device was placed, of such seizure and the reason therefor. The Police Department shall hold any such seized devices for a period of not less than ten days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this division which led to such seizure. Any amusement devices which are so seized and which are not redeemed within the ten-day period described in this division (B)(2) shall become the property of the city. Costs for transportation and storage charges will be billed to the

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 7 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

owner of any amusement devices seized and must be paid before the release of the devices from city storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, and storage of each device.

(C) Violations of § 111.73 Prohibited Conduct shall follow the penalty schedule below:

(1) FIRST OFFENSE:

The licensee or his representative shall be informed of the noise ordinance and corrective measures to achieve compliance. This shall constitute an official warning and should be accomplished in writing if possible.

(2) SECOND OFFENSE:

A citation shall be issued to the licensee or his representative in the amount of two hundred and fifty dollars (\$250.00).

(3) THIRD OFFENSE:

A citation shall be issued to the licensee or his representative in the amount of five hundred dollars (\$500.00).

(4) FOURTH AND SUBSEQUENT OFFENSES:

A citation shall be issued to the licensee or his representative in the amount of one thousand dollars (\$1000.00).

III. These ordinances shall take effect upon passage.

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City of Manchester New Hampshire

In the year Two Thousand and Three

AN ORDINANCE

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I.), Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road, and being more particularly bounded and described as follows:

Beginning at a point located at the southeasterly corner of the herein described property, at the intersection of TM 478, Lot 2, TM 727, Lots 24B & 33, also being the northeast corner of the R-SM (Residential Suburban Multifamily) and the IND (General Industrial) districts, prior to this amendment;

Thence, in a westerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 357 feet, to a point;

Thence, in a southerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 522 feet, to a point;

Thence, in a westerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 343 feet, to a point;

Thence, in a northerly direction along the property line of TM 478, Lot 8A & TM 478, Lot 8, also being the zone boundary line of the R-1B (Residential One Family) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 630 feet, to a point;

Thence, in a easterly direction across TM 478, Lot 8 along a metes and bound line described as North 59 degrees, 31 minutes, and 52 seconds East, also being the new zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, after this amendment, a distance of approximately 465 feet, to a point;

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City of Manchester New Hampshire

In the year Two Thousand and Three

AN ORDINANCE

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

Thence, in a southerly direction along the property line of TM 727, Lots 24 D, 24 C, 24 B & TM 478, Lot 8, also being the new zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, after this amendment, a distance of approximately 579 feet, to a point, said point also being the point of beginning.

Said description to include a 7.6 acre portion of TM 478, Lots 8.

SECTION II. Resolve this ordinance shall take effect upon passage.



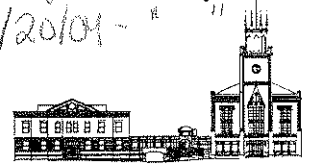
Robert S. MacKenzie, AICP
Director

CITY OF MANCHESTER

Planning and Community Development

Planning
Community Improvement Program
Growth Management


10/14/03 - Tabled
1/20/04 - "



Staff to:
Planning Board
Heritage Commission
Millyard Design Review Committee

Memorandum

To: Committee on Bills on Second Reading

From: Robert S. MacKenzie 
Director of Planning

Date: October 8, 2003

re: Proposed Rezoning of property on Candia Road

This request is actually composed of two parts. First, the rezoning of a portion of land from IND to R-SM on a property on the south side of Candia Road and east of I-93. Second is a text change to the ordinance that would allow drive-thru windows for restaurants in the IND district.

With respect to the map change, our staff has not had time to discuss the issues related to this. The Board may want additional information on school impacts and possible traffic. It would be my opinion, however, that the configuration of the property – particularly the southern one third – lends itself better to residential than industrial. This is because the site tucks in behind existing residential areas and certain industrial uses in this location would be disruptive of the neighborhood.

A question was also raised on whether the rezoning request complies with the 10 acre limitation of the Zoning Ordinance for R-SM zones. We are preparing a letter to the City Solicitor on this issue.

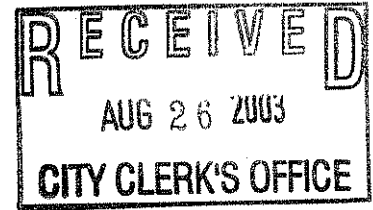
With respect to the drive-thru provision, it is our opinion that if the Board is inclined to allowing the proposed uses, that this change would be far more preferable than changing the zoning of the larger area to a commercial district. If this change were made I would note that additional changes might be required in order to avoid an anomaly in the ordinance.

I will be available at your next meeting should you have questions.

One City Hall Plaza, Manchester, New Hampshire 03101
Phone: (603) 624-6450 FAX: (603) 624-6529
E-mail: planning@ci.manchester.nh.us
www.ci.manchester.nh.us

SL&V
ATTORNEYS AT LAW

nlazos@slvlaw.com



August 25, 2003

VIA Hand Delivery

Board of Mayor and Aldermen
c/o Manchester City Clerk
City Hall
One City Hall Plaza
Manchester, NH 03101

**RE: Rezone a Portion of Land of Candia Realty, LLC known as
Tax Map 478, Lot 8 From Industrial to R-SM. And Amend
Section 5.10 of the Zoning Ordinance.**

Ladies and Gentlemen:

This attached Petition for an amendment to the Manchester Zoning Ordinance is being made at the request of my client, Candia Realty, LLC. to rezone a portion of the existing Industrial zoned land located on Candia Road containing approximately 7.6 acres (as more specifically described in the Petition) from Industrial to Residential Suburban Multifamily (R-SM). This Petition will effectively extend the existing R-SM Zone south of the Property (which currently contains the Eastgate Apartment Complex) north to include approximately three fourths (3/4) of the Property owned by Candia Realty, LLC. The Property also abuts an existing R-1B Residential Zone to the west. In addition, we request an amendment of the Table of Uses of the Ordinance to permit Drive Through Service for restaurants allowed in the Industrial Zone.

We have already discussed this request with Robert Mackenzie of the Planning Department.

We request that the Petition be included in the proposed public hearing for other Zoning Amendments scheduled for the end of September.

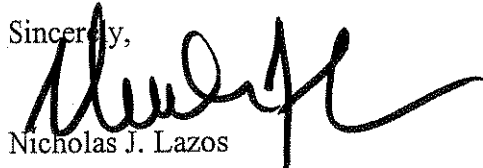
STEBBINS, LAZOS & VAN DER BEKEN
PROFESSIONAL ASSOCIATION

The Daily Mirror Building
66 Hanover Street, Suite 301
Manchester, NH 03101
Telephone (603) 627-3700
Facsimile (603) 641-8900

F:\Lazos\clients\Dunkin Donuts\Manchester Candia Rd\Zoning\lt Manchester City Clerk zoning.doc

Thank you for your attention to this matter. If you should need any further information please feel free to call me. We also enclose a check for \$300.00 as required by the Ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nicholas J. Lazos', with a stylized, flowing script.

Nicholas J. Lazos

cc: Robert Mackenzie

cc: Client

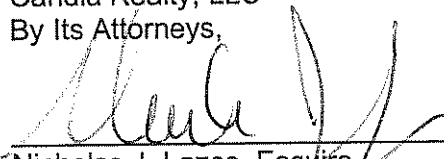
To the Honorable Board of Mayor and Aldermen of the City of Manchester:

The Undersigned respectfully represents that for the accommodation of the public there is occasion for amending the zoning district applicable to a portion of a 10.94 acre parcel located on Candia Road and known as Map 478, Lot 8 (more particularly described on the attached Exhibit A) (the "Premises") from the current Industrial Zone (Ind) to the Residential Suburban Multifamily (R-SM) support of this Petition offers the following:

1. Map 478 Lot 8 is currently zoned Industrial and abuts the existing R-SM Zone to the south and the R-1B Residential Zone to the west. The purpose of this Petition is to extend the R-SM Zone north to include that portion of the property described in Exhibit A attached hereto and on the attached proposed Development Plan..
2. Petitioner also requests that Section 5.10 G. 6 of the Table of Principal Uses of the Zoning Ordinance amended by inserting a "P" in the "IND General Industrial/Industrial Park" column of said Item G. 6 of the Table.

The Petitioner, therefore respectfully requests that the Honorable Board of Mayor and Aldermen grant this Petition.

Sincerely,
Candia Realty, LLC
By Its Attorneys,



Nicholas J. Lazos, Esquire
Stebbins, Lazos & Van Der Beken, PA
66 Hanover Street
Manchester, NH 03101

The land known as Tax Map 748, Lot 8, Candia Road, Manchester, Hillsborough County, New Hampshire, as shown on a plan entitled "TM 748 Lot 8, Dunkin Donuts, Candia Road, Manchester, NH, Development Plan" dated July 2003 Scale 1" = 50' by CLD Consulting Engineers and further described as follows:

Beginning at a point located at the southeasterly most corner of the herein described tract and the intersection of Lots 478/2, 727/33 and 727/24; thence,

- 1) North 64° 20' 22" West along Lot 478/2, a distance of 15.03 feet to a point; thence
- 2) North 74° 33' 02" West along Lot 478/2, a distance of 135.65 feet to a point; thence
- 3) North 71° 42' 43" West along Lot 478/2, a distance of 35.86 feet to a point; thence
- 4) North 77° 55' 43" West along Lot 478/2, a distance of 33.73 feet to a point; thence
- 5) North 74° 36' 15" West along Lot 478/2, a distance of 137.20 feet to a point; thence
- 6) South 03° 10' 10" West along Lot 478/2, a distance of 131.39 feet to a point; thence
- 7) South 02° 21' 39" West along Lot 478/2, a distance of 97.72 feet to a point; thence
- 8) South 02° 26' 58" West along Lot 478/2, a distance of feet 16.81 feet to a point; thence
- 9) South 02° 40' 57" West along Lot 478/2, a distance of 104.82 feet to a point; thence
- 10) South 01° 51' 33" West along Lot 478/2, a distance of 64.95 feet to a point; thence
- 11) South 04° 12' 50" West along Lot 478/2, a distance of 47.55 feet to a point; thence
- 12) South 00° 14' 17" West along Lot 478/2, a distance of 59.62 feet to a point; thence
- 13) North 79° 11' 20" West along Lot 478/2, a distance of 189.46 feet to a point; thence
- 14) North 71° 45' 20" West along Lot 478/2, a distance of 153.89 feet to a point at the southwest corner; thence

- 15) North 05° 05' 36" East along Lot 478/8A, a distance of 450.75 feet to a point; thence
- 16) North 03° 59' 37" East along Lot 478/8A, a distance of 92.09 feet to a point; thence
- 17) North 03° 22' 31" East along Lot 478/8A, a distance of 87.79 feet to a point at the northwest corner of the herein described tract; thence,
- 18) North 59° 31' 52" East along New Lot 478/8B, a distance of 354.19 feet to a point; thence
- 19) Along a curve with a radius of 57.00, a length of 116.17 feet to a point; thence
- 20) North 64° 43' 25" East, a distance of feet 52.48 to a point; thence
- 21) South 25° 16' 35" East along Lot 727/24C, a distance of feet 12.34 to a point; thence
- 22) South 25° 51' 57" East along Lot 727/24C, a distance of feet 246.35 to a point; thence
- 23) South 24° 54' 39" East along Lot 727/24C, a distance of feet 106.86 to a point; thence
- 24) South 24° 44' 34" East along Lot 727/24B, a distance of feet 109.38 to a point; thence
- 25) South 18° 19' 43" East along Lot 727/24B, a distance of feet 16.97 to the point of beginning.

All distances are approximate.

MEMORANDUM

This Memorandum as required by Article 16 of the City of Manchester's Zoning Ordinance is in support of the application by Candia Realty, LLC related to Map 478, Lot 8 on Candia Road, Manchester, New Hampshire ("Premises") to amend the zoning map to extend the existing Residential Suburban Multifamily Zone (R-SM) to include the southerly eight (8) acre portion of the Premises.

1. The description of the portion of the Premises to be rezoned is attached hereto in the form of an Exhibit A and a proposed Development Plan.
2. The purpose and intent of the proposed amendment is to amend the zoning map to include the Rezoned Area within the R-SM Zone.
3. The existing zoning district is Industrial but The Premises abuts an existing R-SM Zone to the south and an existing R-1B zone to the west.
4. Impact on District and Adjacent Neighborhoods.

The change in zoning classification will result in a land use which is consistent with the existing uses and will be zoned in a manner consistent with abutting properties. The new zoning classification will have no effect on the adjacent properties since it will reflect and extend existing uses and appropriate uses for the Rezoned Area. The Rezoned Area will serve as a buffer between the R-1B Zoned Area and the Industrial Area to the east. The current use of the Premises will continue until such time as the Premises may be sold.

5. The proposed amendment will have a very beneficial impact on the City's economy, environment and municipal services. The proposed extension of the Suburban Multifamily Zone will provided needed apartment housing for the City and will retain a significant amount of open space. In addition, this extended R-SM Zone creates a buffer zone between the single family area to the west and the developed industrial area to the east. Any future development of the property will require approval from and review by the Manchester Planning Board which will include traffic studies, modified driveways and site plan review to address any possible impacts.

The proposed amendment of the Table of Uses of the Ordinance to permit drive through service in the Industrial Zone is consistent with the permitted uses in the Industrial Zoned areas. The drive through service enhances the convenience and accessibility of smaller restaurants which are already permitted by right in the Industrial Zone. In the present case, drive through service is already permitted in the "Wendy's Restaurant" located directly across Candia Road.

6. Attached is a list of all abutters, addresses and tax map numbers.

Petition to ReZone

Candia Road Lot 478/8

Manchester, New Hampshire

List of Abutters

Owners of record as of 7-31-03 4:00 P.M.

Lot 478/2

Eastgate Apartment Associates Limited Partnership
540 N. Commercial Street
Manchester, NH 03101-1146

Lot 478/8A

City of Manchester
Tax Collector
908 Elm Street
Manchester, NH 03101

Lot 893/1

Wendy's Old Fashioned Hamburgers
P.O. Box 256
4288 W. Dublin Granville Rd
Dublin, Ohio 43017

Lot 893/2

Wendy's Old Fashioned Hamburgers
P.O. Box 256
4288 W. Dublin Granville Road
Dublin, Ohio 43017

****Former owner James A. Spring

Lot 727/24D

Extra Space Northern Investment LLC
2795 Cottonwood Portway #400
Salt Lake City, UT 84121

*** Former owner Safeloc Storage

Lot 272/24C

Normand J. Campeau
449 Hayward Street
Manchester, NH 03103

Lot 727/24B

Robert Buckley, Trustee
385 King Street
Hanover, MA 02339

Add'l owner

Josephine Buckley as Trustee
Buckley Manchester Realty Trust

Lot 272/33

Duryco LLC
C/o DRC Realty LLC
720 E. Industrial Park Dr. #1
Manchester, NH 03109



Robert S. MacKenzie, AICP
Director

CITY OF MANCHESTER

Planning and Community Development

Planning
Community Improvement Program
Growth Management



Staff to:
Planning Board
Heritage Commission
Milliard Design Review Committee

TO: City Clerk
FROM: City Planning Dept. *TZH*
DATE: Sept. 5, 2003

RE: Short title for zoning amendments requested for property located on Candia Road, TM 478, Lot 8 by Candia Realty, LLC

Listed below are the short titles for two requests to the Board of Mayor and Aldermen. One description represents a map change, while the second represents a text change.

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, G-6 of the Table of Principal Uses by inserting a "P" in the "IND - General Industrial/Industrial Park" column of item G-6 of the table.